

AN ORDINANCE **98892**

ORDERING A JOINT SPECIAL ELECTION TO BE HELD ON SATURDAY, MAY 15, 2004 IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR THE PURPOSE OF AMENDING THE CHARTER OF THE CITY OF SAN ANTONIO.

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WHEREAS, the City Council of the City of San Antonio, Texas (the "City") wishes to order a joint special election for Saturday, May 15, 2004, for the purpose of amending the City Charter; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. A joint Special Election is hereby ordered to be held in the various voting precincts of the City of San Antonio on Saturday, May 15, 2004, at which time the following propositions to amend the City Charter of the City of San Antonio shall be submitted to the qualified voters of the City:

PROPOSITION NO. 1

Shall the City Charter be amended effective June 1, 2005, to lengthen the term of office for all members of the city council from two years to three years and to revise term limits to allow a mayor or a member of the city council to serve three consecutive full terms of office, but prohibit the current mayor or any current member of the city council from being elected to a third consecutive term in 2005 or 2008, said sections when amended to read as follows:

Sec. 5. Terms of office.

The terms of office of all members of the council elected at a regular municipal election shall be for three years beginning on the first day of June next following their election.

Sec. 8. Vacancies.

Vacancies on the council arising from any cause shall be filled by a majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty days after such vacancy or vacancies occur.

Sec. 20. Limitation on terms of office.

(a) No person shall be eligible to hold any elected office for more than three consecutive full terms, and shall not be placed on the ballot for election to any term if service for the full term would constitute a violation hereof. For the purpose of this section, the office of Mayor shall be considered a separate office from other Council places.

(b) A person elected to an office at a regular municipal election and who qualifies for the office shall be deemed to have held that office for a full term, even if the person vacates the office before the expiration of the term. A person elected at a special municipal election to fill a vacant office shall be deemed to have held that office for a full term if the person serves in that office for more than 50% of the full term.

TEMPORARY SECTION FOR PROPOSITION ONE.

(a) This temporary section applies to the charter amendment proposed as Proposition One in the ordinance calling a special election for proposed charter amendments enacted February 26, 2004, and expires June 2, 2008. This temporary section may be deleted from any compilation or codification of the Charter prepared after June 2, 2008.

(b) The amendments to Section 5 (Terms of Office), Section 8 (Vacancies), and Section 20 (Limitation on terms of office) of the San Antonio City Charter take effect June 1, 2005.

(c) Notwithstanding any provision of this charter to the contrary, a person elected as Mayor or a member of the city council for a term beginning June 1, 2003, shall not be placed on the ballot for election to a term that begins in 2005 or 2008 if that term would constitute a third consecutive term in that office.

PROPOSITION NO. 2

Shall the City Charter be amended to increase compensation for members of the City Council to an annual salary equal to 75% of the San Antonio median family income determined and published by the U.S. Census Bureau for the most recent decennial census (\$30,998.25 per year, based on the 2000 census), and to an annual salary for the Mayor equal to 100% of the San Antonio median family income as determined above (\$41,331.00 per year, based on the 2000 census), and authorize members of the City Council to participate in health insurance programs available to city employees, said sections when amended to read as follows:

Sec. 6. Compensation.

(a) Each member of the Council shall receive as compensation for services on the Council an annual salary equal to 75% of the San Antonio median family income determined and published by the U.S. Census Bureau for the most recent decennial census; except the Mayor shall receive as compensation an annual salary equal to 100% of the San Antonio median family income as determined above. The salary authorized by this section shall be paid periodically on the same frequency as if the member of the Council were a city employee. Each member of the Council is authorized to participate in any health insurance programs available to city employees, on the same terms and conditions as if the member of the Council were a full-time city employee.

(b) The City Council may provide in an ordinance enacted to compel the attendance of absent members that no compensation established by this section shall be paid for a week during which a member of the Council fails to attend each meeting of the council scheduled by ordinance.

Sec. 9. Mayor and mayor pro tem.

Par. 1. The person elected to the last place on the council shall serve as and be the mayor during his term of office.

The mayor shall be the presiding officer of the council.

Par. 2. The mayor pro tem shall act as mayor during the absence or disability of the mayor. Should a vacancy occur in the office of the mayor, the mayor pro tem shall act as mayor until the mayor's position has been filled as provided in Section 8 above. While serving as mayor, the mayor pro tem shall receive the same compensation as the mayor.

Par. 3. The mayor, the mayor pro tem and any member of council may be paid such expenses in connection with their official duties as may be provided by the council.

TEMPORARY SECTION FOR PROPOSITION TWO.

(a) This temporary section applies to the charter amendment proposed as Proposition Two in the ordinance calling a special election for proposed charter amendments enacted February 26, 2004, and expires June 2, 2005. This temporary section may be deleted from any compilation or codification of the Charter prepared after June 2, 2005.

(b) The amendments to Section 6 (Compensation) and Section 9 (Mayor and mayor pro tem) of the San Antonio City Charter take effect June 1, 2005.

PROPOSITION NO. 3

Shall the City Charter be amended to establish an Ethics Review Board with independent jurisdiction to enforce and sanction violations of ordinances relating to ethics, lobbying, and campaign finance, said sections when amended to read as follows:

ARTICLE XIII

ETHICS REVIEW BOARD

Section 166. ORGANIZATION.

(a) The City Council shall appoint an Ethics Review Board, to exercise the powers and duties established by this Charter. The Ethics Review Board shall consist of eleven members. The Mayor and each member of the City Council shall nominate one member of the Board. Each nominee shall be confirmed by a majority vote of the City Council. Nomination and confirmation of Board members shall be conducted at separate open meetings of the City Council. Initial board appointments shall be made so that terms are staggered, with six members to serve an initial term of two years and five members to serve an initial term of three years, determined after appointment by lottery. Subsequent appointments shall be for a term of two years beginning on the day after the expiration of the preceding full term. No member of the Board shall serve for more than three full terms.

(b) Members of the Board shall have good moral character and shall be residents of the city. No person appointed to the Board may be: a salaried city official or employee; an elected public official; a candidate for elected public office; an officer of a political party; or a person required by ordinance to register as a lobbyist. A member of the Ethics Review Board may be removed from office for cause by a majority vote of the City Council after a public hearing at which the member is provided the opportunity to be heard. Grounds for removal are: a failure to satisfy or to continue to satisfy the qualifications set forth in this section; a substantial neglect of duty; gross misconduct in office; inability to discharge the powers or duties of office; a violation of any provision of the ethics ordinance; or a conviction of a felony or crime of moral turpitude.

(c) The City Council shall fill any vacancy on the Board by a person who will serve the remainder of the unexpired term. The nomination to fill a vacancy shall be made by the member of the City Council (or his or her successor) who had nominated the person whose successor is to be selected to fill the vacancy.

Section 167. JURISDICTION AND POWERS.

Paragraph 1. Jurisdiction. The Ethics Review Board shall have jurisdiction to investigate and make findings and conclusions concerning:

- (1) an alleged violation of an ethics code enacted from time to time by ordinance;
- (2) an alleged violation of regulations governing lobbying enacted from time to time by ordinance;
- (3) an alleged violation of local campaign finance regulations enacted from time to time by ordinance; and
- (4) an alleged violation of Section 141 of this Charter; provided, however, that the Ethics Review Board has no jurisdiction to find or conclude that a city officer or employee has forfeited his or her office or position.

Paragraph 2. Termination of City Official or Employee's Duties. The termination of a city official's or employee's duties does not affect the jurisdiction of the Ethics Review Board with respect to alleged violations occurring prior to the termination of official duties.

Paragraph 3. Powers. The Ethics Review Board has the power:

- (1) to establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with ordinances;
- (2) to meet as often as necessary to fulfill its responsibilities;
- (3) to designate panels with the power to render decisions on complaints or issue advisory opinions on behalf of the Board;
- (4) to request from the City Manager the assignment of staff necessary to carry out its duties;
- (5) to review, index, maintain on file, and dispose of sworn complaints;
- (6) to make notifications, extend deadlines, and conduct investigations, both on referral or complaint;
- (7) to compel the production of sworn testimony, witnesses and evidence;
- (8) to recommend cases for prosecution by appropriate authorities and agencies;
- (9) to enforce its decisions by assessing civil fines and other sanctions authorized by ordinance;
- (10) to request the City Attorney to provide an independent counsel to advise and represent the Board, when appropriate or necessary to avoid a conflict of interest;
- (11) to provide assistance in the training and education of city officials and employees with respect to their ethical responsibilities;
- (12) to prepare an annual report and to recommend to the City Council needed or desirable changes in ordinances under its jurisdiction; and
- (13) to exercise such other powers and duties as may be established by ordinance.

Section 168. APPEAL.

A decision of the Ethics Review Board is final unless the person aggrieved by the decision appeals to the state district court in Bexar County no later than thirty days after the date the Board renders the decision. An appeal of a Board decision is initiated by filing a verified petition setting forth the specific points of error alleged. The District Court shall review an appeal under this section under the substantial evidence rule and shall base its decision on the court's review of the record of the hearing before the Board. The District Court will affirm the findings and decision of the Ethics Review Board and may not substitute its judgment for that of the board unless the Board's decision was arbitrary, capricious, unlawful, or not supported by substantial evidence. If the decision of the Ethics Review Board is not supported by substantial evidence, the District Court may reverse or affirm the Board's decision in whole or in part, or may modify the Board's decision if substantial rights of the aggrieved person have been prejudiced. The procedures and remedies of said appeals will be governed by the rules and regulations promulgated by the ordinance. Costs of an appeal may not be assessed against the Board, individual board members, or the City of San Antonio.

PROPOSITION NO. 4

Shall the City Charter be amended to permit an individual member of the City Council to hire staff who serve at the will of the council member, subject to provisions established by City Council ordinance, said sections when amended to read as follows:

Section 9a. Staff for Council Member.

(a) A member of the council may employ staff as authorized by the budget and other applicable ordinances. If staff for a member of the council is authorized by an ordinance that implements this section, no other public funds may be used to provide staff or staff services under the direct control of a member of the council.

(b) An employee authorized by this section is hired by and serves at the will and pleasure of the council member during the member's term of office, and is not a member of the classified civil service or the administrative service of the city.

(c) An employee authorized by this section is subject to the prohibitions, obligations, and benefits established for city employees by this charter and city ordinance, except that the employee shall not be considered a city employee for purposes of subsections (d) or (e) of Section 78 of this Charter.

Sec. 69. Establishment.

There shall be a classified civil service which shall include all appointive offices and employments in the administrative service and in other agencies and offices of the City, and all persons receiving compensation from the City for personal services, except the following:

- (a) Members of the Council, and staff employed by a member of the council, as specifically authorized by this charter;
- (b) Persons who are appointed or elected by the Council pursuant to this Charter;
- (c) The City Manager, Deputy City Manager, the Assistant City Managers and Assistants to the City Manager, if any; and the secretary to the City Manager;
- (d) The directors of departments;
- (e) All assistant directors of departments;
- (f) All executive secretaries;
- (g) Architects, attorneys, assistant auditors, dentists, doctors, engineers, psychologists and veterinarians employed by the city;
- (h) Any other managerial or professional employees as designated by the City Manager and approved by the City Council;
- (i) Part-time, temporary and seasonal employees; and
- (j) Persons, firms, corporations, associations, foundations or other organizations whose services may be specifically engaged for professional, investigative, consultative, or other special services, and all employees or agents performing such services for such person, firm, corporation, association, foundation or of organization so specially engaged.

TEMPORARY SECTION FOR PROPOSITION FOUR.

(a) This temporary section applies to the charter amendment proposed as Proposition Four in the ordinance calling a special election for proposed charter amendments enacted February 26, 2004, and expires October 2, 2004. This temporary section may be deleted from any compilation or codification of the Charter prepared after October 2, 2004.

(b) The amendments to Section 9a (Staff for Council Member) and Section 69 (Establishment) of the San Antonio City Charter take effect October 1, 2004.

SECTION 2. The foregoing propositions shall be submitted on the ballot so that each voter may vote "YES" or "NO," as follows:

PROPOSITION NO. 1

Shall the City Charter be amended effective June 1, 2005, to lengthen the term of office for all members of the city council from two years to three years and to revise term limits to allow a mayor or a member of the city council to serve three consecutive full terms of office, but prohibit the current mayor or any current member of the city council from being elected to a third consecutive term in 2005 or 2008?

PROPOSITION NO. 2

Shall the City Charter be amended to increase compensation for members of the City Council to an annual salary equal to 75% of the San Antonio median family income determined and published by the U.S. Census Bureau for the most recent decennial census (\$30,998.25 per year, based on the 2000 census), and to an annual salary for the Mayor equal to 100% of the San Antonio median family income as determined above (\$41,331.00 per year, based on the 2000 census), and authorize members of the City Council to participate in health insurance programs available to city employees?

PROPOSITION NO. 3

Shall the City Charter be amended to establish an Ethics Review Board with independent jurisdiction to enforce and sanction violations of ordinances relating to ethics, lobbying, and campaign finance?

PROPOSITION NO. 4

Shall the City Charter be amended to permit an individual member of the City Council to hire staff who serve at the will of the council member, subject to provisions established by City Council ordinance?

SECTION 3. Propositions approved by a majority of the resident, qualified voters of the City of San Antonio, Texas, voting in such election, shall become effective upon passage of the Canvassing Ordinance by the City Council, declaring the results of said election, and as specified by any temporary Charter provision adopted by the voters as a part of the proposition.

SECTION 4. As soon as practicable after the election and the declaration by the City Council that the amendments have been approved and adopted, the Mayor shall certify to the Secretary of State an authenticated copy of the amendments, under the City's seal, showing the approval by the voters of the municipality.

SECTION 5. The City Council will hereafter contract with the Bexar County Elections Administrator to conduct this election. The contract will be considered by the City Council at a subsequent meeting, as evidenced by passage of an ordinance.

SECTION 6. The City Council of the City of San Antonio hereby finds that the May 15, 2004 Special Election shall be held jointly with Bexar County, the Alamo Community College District, the East Central Independent School District, the Edgewood Independent School District, the North East Independent School District, and the San

Antonio Independent School District. The Joint Election Agreement will be considered by the City Council at a subsequent meeting, as evidenced by passage of an ordinance.

SECTION 7. Said election shall be held as prescribed by law at the following voting places in the several precincts of the City of San Antonio, as listed in **Attachment A**, between the hours of 7:00 o'clock a.m. and 7:00 o'clock p.m. at those locations listed in **Attachment C**. Attachments A and C are attached hereto and incorporated herein for all purposes.

SECTION 8. Voting at said election for election day voting shall be done by the use of AIS650 Tabulators, paper ballots or the iVotronic™ touch screen voting system, as determined by the City Clerk of the City of San Antonio and the Bexar County Elections Administrator. The City Clerk does determine hereby that AIS650 Tabulators and paper ballots shall be used for the casting of early votes by mail and for provisional voting at this election. Voting at said election for early voting by personal appearance shall be done by the use of the iVotronic™ touch screen voting system. The equipment shall be placed at branch offices as listed in **Attachment B**, which is attached hereto and incorporated herein for all purposes, established for the purpose of conducting early voting by personal appearance during the dates and hours hereby indicated in Attachment B.

SECTION 9. Early voting by personal appearance shall be conducted at the branch offices as listed in Attachment B, during the period for early voting, commencing Wednesday, April 28, 2004, and ending Tuesday, May 11, 2004.

SECTION 10. Electors may cast their early vote by mail, and the early voting clerk's mailing address to which ballot applications and ballots voted by mail shall be sent to, is as follows:

Cliff R. Borofsky
Bexar County Elections Administrator
203 W. Nueva 3.61
San Antonio, Texas 78207
Attention: Early Voting Clerk

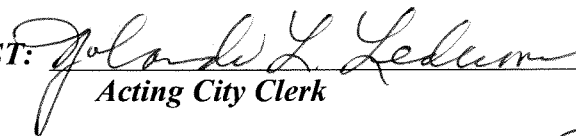
SECTION 11. Notice of such Special Election shall be given by publishing a substantial copy of the proposed amendments, both in English and in Spanish, in a newspaper of general circulation on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election; and a substantial copy of this Ordinance, both in English and in Spanish, shall be posted at three (3) public places in the City of San Antonio and also at City Hall.

SECTION 12. All resident qualified electors of the City shall be permitted to vote at the election and on the day of the election, such electors shall vote at the designated polling place. The election shall be held and conducted in accordance with the provisions of the Texas Election Code, as amended, and the provisions of the Texas Government Code, and as may be required by any other law. All election materials and proceedings shall be printed in both English and Spanish. The official ballots for said election shall be prepared in accordance with the Texas Election Code.

SECTION 13. This Ordinance is effective February 26, 2004.

PASSED AND APPROVED on this the 26th day of February, 2004.


M A Y O R
EDWARD D. GARZA

ATTEST: 
Acting City Clerk

APPROVED AS TO FORM: 
City Attorney